

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Yuki HORII et al. : **Mail Stop: ACCOUNTING DIVISION
REFUND BRANCH**

Serial No. 10/530,927 :

Filed April 8, 2005 : Attorney Docket No. 2005_0609A
Confirmation No. 9481

INFORMATION PROCESSOR

REQUEST FOR REFUND

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Applicants respectfully request a 100% refund of the extension fees of \$1,110.00 that were paid on April 8, 2009, along with the filing of a response to the Office Action dated on October 8, 2008. The refund is requested because of the failure to receive the Office Action dated October 8, 2008, which resulted in the Applicants having to pay the extension fees.

The undersigned became aware of the Office Action during a routine status check (i.e., a check of the PAIR system on the PTO website). The status check was conducted on Friday April 3, 2009. Given that the undersigned had no record of ever receiving the Office Action, the Examiner's Supervisor and the Office of Petitions were contacted in an attempt to have a new Office Action issued (i.e., thereby resetting the time period for response) on Monday April 6, 2009. The request for a new Office Action was denied, but the Office of Petitions did suggest that a refund for payment of the extension fees be requested.

The Applicants provide the following evidence that the Office Action dated October 8, 2008 was never received by the undersigned, thereby justifying the requested refund.

The undersigned's docket, the undersigned's secretary's docket, and a computerized docketing system are maintained separately for monitoring all correspondence received from the United States Patent and Trademark Office (PTO). When correspondence (e.g., an Office Action or Notice of Allowance) from the PTO is received by Wenderoth, Lind & Ponack (WL&P), it is matched to the corresponding WL&P file and the receipt of the correspondence is recorded on

the face of the WL&P file (submitted as **Exhibit "A"**). **The face of the WL&P file shows no indication of the Office Action dated October 8, 2008, which would have been written on the left-hand column under "PTO COMMUNICATIONS."**

All PTO correspondence is then reviewed and the type of correspondence and the initial due date for responding to the correspondence, as well as any possible extensions, are entered into the computerized docketing system (by Pamela Veazey or one of the two individuals she supervises). The computerized docketing system cross-references each patent application by WL&P matter number, PTO serial number, title, client name, and last name of the first inventor. The computerized docketing system is used to generate and print out a daily report for each responsible attorney/agent.

The daily report lists all PTO applications that have responses to communications due on that date (submitted as **Exhibit "B"**). The daily report also indicates what, if any, extensions are available for responding to the communication. The daily report is manually handed out to each attorney/agent and secretary team for review. Each item on the report is indicated as either to be filed on that day or extended, if available, and the report is returned so that this information can be used to update the status in the computerized docketing system. **As can be seen from the attached daily report there is no indication of the Office Action dated October 8, 2008, which if received would have listed a response due on January 8, 2009.**

The undersigned, as well as the undersigned's secretary, both separately review all PTO correspondence. The undersigned handwrites the PTO serial number, the last name of the first inventor, and the type of correspondence in the appropriate space in his docket for the date that the response to the correspondence is initially due. The undersigned's secretary similarly handwrites the PTO serial number, the last name of the first inventor, and the type of correspondence in her docket book on the appropriate page for the date that the response to the correspondence is initially due (submitted as **Exhibit "C"**). In this way, the receipt of PTO correspondence and associated due dates for responding to the correspondence are entered into a triple redundant docketing system. **As can be seen from the attached docket book there is no indication of the Office Action dated, October 8, 2008, which if received would have listed a response due on January 8, 2009.**

In light of the above general discussion, it is submitted that sufficient evidence has been provided to support a finding that the docketing system at WL&P is sufficiently reliable and that

the Office Action dated October 8, 2008 was never received by WL&P or the undersigned. As a result, it is respectfully requested that the requested refund be granted.

Kindly credit the refund of \$1,110.00 to the deposit account of undersigned, no. 23-0975. If there are any questions regarding this matter, please contact Kim Hubbard, Accounting Assistant, at (202) 721-2855.

Respectfully submitted,

Yuki HORII et al.

/Mark D. Pratt/
By 2009.05.29 16:08:33 -04'00'

Mark D. Pratt
Registration No. 45,794
Attorney for Applicants

MDP/ats

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Washington, D.C. 20005-1503
Facsimile (202) 721-8250
May 29, 2009

2005_0609A

TTONERY

MDP

FILE NO 2005 46074

(Small Entity Stamp)

WENDEROTH, LIND & PONACK

003188601

HORIT

PCT

Patent No. 10/530,927

VENTORS	
Yuki HORTT	
Ioshio KAWAKAMI	
Asushi WAKI	
rial No.	(0) 530,927

CLIENT	Ogasawara
Client No.	1413
Client Ref.	FP-2007PCT
FILED (Date)	4-8-05
Indep / Clms	2
Dep / Clms	6
Drawings / Figures	52/1-95
DECLARATION (Date)	3-30-05
Filed with Application?	(X) Yes () No
ALLOWED (Date)	
ISSUE FEE PAID (Date)	
ISSUED (Date)	
Docketed for Maintenance Fees	/ Date Intls

FILE INFORMATION PROCESSOR

) 1.53(b) NEW APPLN. CONVENTION _____ () 1.53(b) NEW APPLN. NON-CONVENTION _____
) 1.53(b) () CA () DIV () CIP () PARENT S.N. _____ FILED _____ STATUS _____
) 1.53(c) PROVISIONAL APPLICATION () 1.53(d) CPA
) PCT NATIONAL STAGE OF _____ FILED Oct 9 02

) Filed Without Fee	Reissue of U.S.P.
) Filed in Foreign Language	PCT No. PCT/JP2003/12932

SIGNED TO: Matsushita Electric Industrial Co., Ltd.

3-30-05	4-8-05	4/8/05	017691	971-973
EXECUTED	FILED	RECORDED	REEL	FRAME

SIGNED TO:

EXECUTED	FILED	RECORDED	REEL	FRAME
PTO COMMUNICATIONS				
MAIL DATE	TYPE ACTION	DUE DATE	DATE STAMP	DATE FILED
NOV 18 2008	11/18/08 Actd	1-5-08	NOV 18 2008	Copy 48
10-5	3-MO	1-5-08		3-16-08 Resubmission of Assign
3-4	3-MO	6-4		1-7-08 Amendment
6-20	Adv-actd			6-4-08 Amendment
				7-7-08 Amendment DCC 007
				9-25-08 Supplemental Amend
				10-7-08 IDS/1449
				4-8-09 Amendment; EDT

URGENT ATTORNEY #1 DOCKET FOR MARK D. PRATT *Argo* 10 Printed: 1/8/2009

ENVIRONMENT

DUE	ATTY1/ATTY2 PARA	REFERENCE#	TITLE / MARK	CLIENT	INVENTOR	REG/SERIAL#	ACTION	CURRENT EXT	AVAILABLE EXT
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804

08 Tue	MDP/MDP/MDP	ca05-0693	xxxxx	Notarbartolo & Gervasi VENDRAMELLI, O	(CA)	2,503,951	REQUEST TICKLER	0	None
08 Tue	MDP/MDP/MDP	ca05-0693	xxxxx	Notarbartolo & Gervasi VENDRAMELLI, O	(CA)	2,503,951	ANNUITY DUE TICKLER	1	None

Sentember '08

September 08	08 Mon MDP/MDP/MDP	ca05-0693	xxxxx	Notarbartolo & Gervasi VENDRAMELLI, O	(CA) 2,503,951	REQUEST EXAMINATION	0	None
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October '08	09 Thu	MDP/MDP/MDP	2005-0977A	METHOD AND DEVICE O	IPROC, Panasonic Co	Kawahara, isao	(US)	7,418,152	proof &c	0	None
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November 100

27/11/2003	MDP/MDP/MDF	OPTICAL DISC AND REF	Aoyama & Partners	SHOJI, Mamoru	(US)	10/30/100	NOTICE OF ATTENT	2	None
30 Sun	MDP/MDP/MDP	2003-1213A	GROUP FORMATION	MA	Nakajima & Associate	MATSUZAKI, Natsume	(US)	7,441,117	proof &c

30

December '98	06 Sat	MDP/MDP/MDP	2006-1987	image predictive cooling met	Aoyama & Partners	SHEN, Sheng Mei	(US) 7,444,029	proof &c	0	None
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January '09	03 Sat	MDP/MDP/MDP	2004-2038A	Information Processing Ap	IPROC, Panasonic Co	TANIGUCHI, Hisashi	(US)	7,457,975	proof &c	0	None
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04 Sun	MDP/MDP/MDP	2005-1582A	TERMINAL APPARATUS	Ogasawara Patent Offi	YAMGUCHI, Tsuyoshi	(US)	7,460,555	proof &c	0	None
08 Thu	MDP/MDP/MDP	2007-0004A	A METHOD OF PRODUC	Nakajima & Associate	YOKOTA, Kaori	(US)	10,196,410	RESPONSE TO OA	0	None

08 Thu MDPP/MBR/MDP 2003-0858a RECORDING APPARATUS Nakajima & Associate MATUURA, Yasuyuki (US) 10/602,882 *zhing* FINAL REJECTION *zhing* 0 3 Ext

END OF REPORT

TOTAL ITEMS SELECTED =

EXHIBIT B
ALL ITEMS SELECTED =



JANUARY

8

THURSDAY

2009 8th day - 357 days follow

~~2002-0904A Volcota 10/19/01, 410 041~~
Abandoned 11-4-08

~~2003-0858A Matsunaga 10/6/02, 880 Filed 1-8-09~~
~~2003-0858A Matsunaga 10/6/02, 882~~